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09/842,346	04/25/2001	Robert Roy Keller JR.	70550	6975

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FITCH EVEN TABIN AND FLANNERY  
120 SOUTH LA SALLE STREET  
SUITE 1600  
CHICAGO, IL 60603-3406

EXAMINER

BROWN, VERNAL U

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2612

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**BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES**

Application Number: 09/842,346  
Filing Date: April 25, 2001  
Appellant(s): KELLER ET AL.

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Kenneth H. Samples  
For Appellant

**EXAMINER'S ANSWER**

**MAILED**

**JUN 19 2006**

**GROUP 2600**

This is in response to the appeal brief filed 3/30/2006 appealing from the Office action mailed 6/30/2005.

**(1) Real Party in Interest**

A statement identifying by name the real party in interest is contained in the brief.

**(2) Related Appeals and Interferences**

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

**(3) Status of Claims**

The statement of the status of claims contained in the brief is correct.

**(4) Status of Amendments After Final**

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

**(5) Summary of Claimed Subject Matter**

The summary of claimed subject matter contained in the brief is correct.

**(6) Grounds of Rejection to be Reviewed on Appeal**

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

**(7) Claims Appendix**

The copy of the appealed claims contained in the Appendix to the brief is correct.

**(8) Evidence Relied Upon**

6,249,673	Tsui	01-2001
6556813	Tsui	04-2003
6,366,198	Allen et al.	04-2002

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5,552,641	Fischer et al.	09-1996
4750118	Heitschel	06-1988

### **(9) Grounds of Rejection**

The following ground(s) of rejection are applicable to the appealed claims:

#### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1, 4-5, and 8-9 are rejected under 35 U.S.C. 102(e) as being anticipated by Tsui U.S patent 6249673.

Regarding claim 1, Tsui teaches a transmitter for transmitting security codes at a plurality of modulations and frequencies (col. 2 lines 54-58) comprising:

a plurality user manipulatable signal configuration switches ( $S_1$ - $S_8$ ) which are adjusted by an operator by to select signal configuration settings for transmitter signals (col. 6 lines 14-17), plurality of inputs switches ( $s_1$ - $s_8$ , figure 3A); a controller (230) responsive to the signal configuration switches during a lean mode for storing the selected signal configurations in memory locations (col. 6 lines 19-22), a plurality of user inputs (switch buttons in figure 3A), apparatus responsive to user interaction with each transmit initiation key during an operate mode for retrieving the signal configuration associated therewith (col. 6 lines 19-22); and transmitter

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circuitry for transmitting the retrieved signal configuration received from the controller at a predetermined frequency (col. 6 lines 23-26). Tsui teaches the signal configuration setting includes a code because the transmitter is a remote control for a garage door opener (col. 3 lines 5-7) and the garage door is open when the appropriate signal (code) is transmitted to the garage door receiver (col. 3 lines 7-12).

Regarding claim 4, Tsui teaches the stored parameters are retrieved by the controller by pressing the corresponding switch (col. 6 lines 14-17). The switch therefore identifies the location of the signal configuration.

Regarding claim 5, Tsui teaches a single transmitter circuit (200) for transmitting the signal.

Regarding claims 8-9, Tsui teaches a method of programming a universal transmitter comprising a plurality of user manipulable signal configuration switches ( $S_1$ - $S_8$ ), the method comprising:

setting the plural of signal configuration switches signal configuration input to a first set of desired positions corresponding to a first signal configuration evidenced by the association of each of the switches to a particular configuration (col. 6 lines 14-16), storing the first signal configuration into a first memory location (col. 6 lines 11-14), setting the signal configuration input to a second set of desired positions corresponding to a second signal configuration, storing the second signal configuration into a second memory location, associating one of a plurality of user inputs with each stored signal configuration evidenced by the fact that the different switches are used to recall multiple signal configuration which includes a second signal (col. 6 lines 14-16); and detecting user interaction with one of the plurality of user inputs and transmitting the

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stored signal configuration associated therewith (col. 6 lines 15-17). Tsui teaches the signal configuration setting includes a code because the transmitter is a remote control for a garage door opener (col. 3 lines 5-7) and the garage door is open when the appropriate signal (code) is transmitted to the garage door receiver (col. 3 lines 7-12).

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 3 and 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Tsui U.S. patent 6249673 in view of Tsui U.S. Patent 6556813.

Regarding claims 3 and 10, Tsui teaches a method of programming a universal transmitter comprising, setting signal configuration switches to a first set of desired positions corresponding to a first signal configuration evidenced by the association of each of the switches to a particular configuration (col. 6 lines 14-16), storing the first signal configuration into a first memory location (col. 6 lines 11-14), setting the signal configuration input to a second set of desired positions corresponding to a second signal configuration, storing the second signal configuration into a second memory location, associating one of a plurality of user inputs with each stored signal configuration evidenced by the fact that the different switches are used to recall multiple signal configuration which includes a second signal (col. 6 lines 14-16); and

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receiving one of the plurality of user inputs and transmitting the stored signal configuration associated therewith (col. 6 lines 15-17). Tsui is however not explicit on teaching setting the multi position switches to a second set of positions corresponding to a second configuration position. Tsui (U.S Patent 6556813) teaches the use of the multi-position of multi-point dip switches to select the modulation and code pattern of the transmitter (col. 1 lines 56-65).

It would have been obvious to one of ordinary skill in the art to set the multi position switches to a second set of positions corresponding to a second configuration position in Tsui (U.S patent 6249673) as evidenced by Tsui (U.S Patent 6556813) because the use of multi position switch such as multi-point provides allows the a larger number of signal configuration to be assigned to the transmitter than in the case in which a single point switch is used.

Claims 6, 16-19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Tsui U.S patent 6249673.

Regarding claim 6, Tsui teaches the transmitter operating at frequencies between 280 MHZ to 450 MHZ but is silent on teaching the transmitter operating at frequencies of 300 MHZ, 310 MHZ and 390 MHZ (col. 5 line 17). One skilled in the art recognizes that the frequencies of 300 MHZ, 310 MHZ and 390 MHZ are in the operable range of 310 MHZ and 390 MHZ.

It would have been obvious to one of ordinary skill in the art to operate the transmitter operating at frequencies of 300 MHZ, 310 MHZ and 390 MHZ in Tsui because Tsui suggests

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operating the transmitter in the frequency range of 280 MHZ to 450 MHZ and one skilled in the art recognizes that the frequencies of 300 MHZ, 310 MHZ and 390 MHZ are in the operable range of 310 MHZ and 390 MHZ.

Regarding claim 16, Tsui teaches a method of operating a code learning apparatus having a plurality of signal configuration switches, comprising steps of activating a learn mode of the code learning apparatus (col. 6 lines 1-6) and each set of the learnt parameters is retrieved by depressing a corresponding transmit switch (col. 6 lines 14-17) which further indicates the setting or assignment of a combination of the configuration switches to define a code signal configuration. Tsui further teaches storing of the code configuration in memory (col. 6 lines 13-14). Tsui is however not explicit in teaching reading the identified code signal configuration from the configuration switches during the learn mode but one skilled in the art recognizes that it is obvious to read the identified code signal configuration from the configuration switches during the learn mode because the switches are assign to learnt code and use to select the transmitter configuration (col. 6 lines 55-58).

It would have been obvious to one of ordinary skill in the art to read the identified code signal configuration from the configuration switches during the learn mode in Tsui because Tsui suggests retrieving the learnt code by the switch selection and one skilled in the art recognizes that it is obvious to read the identified code signal configuration from the configuration switches during the learn mode because the switches are assign to learnt code and use to select the transmitter configuration.

Regarding claims 17-18, Tsui teaches the use of switches to set the transmitting parameters of the transmitter (col. 6 lines 14-17) but is not explicit in teaching the combination



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of the configuration settings comprises a security code. One skilled in the art recognizes the uses of the switches to retrieve the transmitter parameters constitute a measure of security because the transmitter is configurable only by a person who knows the configuration settings of the switches.

It would have been obvious to one of ordinary skill in the art for the combination of the configuration settings comprises a security code in Tsui because Tsui suggests the use of switches to set the transmitting parameters of the transmitter and one skilled in the art recognizes the uses of the switches to retrieve the transmitter parameters constitute a measure of security because the transmitter is configurable only by a person who knows the configuration settings of the switches.

Regarding claim 19, Tsui teaches a code learning apparatus comprises a plurality of user input devices (template transmitter, col. 6 lines 3-4), the method further comprising the steps of: identifying one of the transmit switches and storing a code signal configuration in a memory location associated with the identified transmit switch as indicated in the flow chart (figure 6).

Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over Tsui U.S patent 6249673 in view of Fischer et al. U.S patent 5552641.

Regarding claim 7, Tsui teaches the transmitter transmits various codes at different frequencies (col. 2 lines 54-60) but is silent on teaching a first and second transmitter. Fischer et

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al. in an art related remote control transmitter device teaches a transmitter with a first and second transmitter (col. 5 lines 15-18) in order to facilitate the transmission at various channels.

It would have been obvious to one of ordinary skill in the art for the transmitter to have a first and second transmitter in Tsui as evidenced by Fischer et al. because Tsui suggests the transmitter transmits various codes at different frequencies and Fischer et al. teaches a transmitter with a first and second transmitter in order to facilitate the transmission at various channels.

Claim 11-15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Tsui U.S. patent 6249673 in view of Tsui U.S. Patent 6556813 and further in view of Allen et al. U.S. Patent 6366198.

Regarding claim 11, Tsui teaches the transmitter having a learning mode (figure 6) but is not explicit in teaching the depressing a user input for a predetermined period of time in order to place the transmitter in a learn mode. Allen et al. in an art related transmitter device invention teaches transmitter entering a learning mode depressing a user input for a predetermined period of time in order to place the transmitter in a learn mode (col. 3 lines 44-47).

It would have been obvious to one of ordinary skill in the art to depress a user input for a predetermined period of time in order to place the transmitter in a learn mode in Tsui as evidenced by Allen et al. because by depressing a user input for a predetermined period of time differentiate between the user intent to enter a learn mode versus the entering the operational mode.

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Regarding claims 12-15, Tsui (U.S patent 6249673) teaches the switch settings are used to identify the selected transmitter to be emulated, the code format, the modulation format and the transmission frequency (col. 6 lines 1-20).

Claims 20-21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Tsui U.S patent 6249673 over Heitschel et al. U.S Patent 4750118.

Regarding claim 20, Tsui teaches learning apparatus comprising a template transmitter (col. 6 lines 1-3). Tsui further teaches the transmitter operating in the radio frequency range (col. 5 line 17) but is silent on teaching identifying the transmit switch user during a transmit mode reading from the memory the code signal configuration associated with the identified user input device; and transmitting a signal in accordance with the code signal configuration read from the memory. Heitschel et al. in an art related invention in the same field of endeavor of transmitters teaches a learning apparatus(41) comprising a method of identifying one of the user input devices during a transmit mode (col. 3 lines 9-12) and transmitting a signal in accordance with the code signal configuration read from the memory (col. 3 lines 65- col. 4 line 5).

It would have been obvious to one of ordinary skill in the art to identify the transmit switch during a transmit mode reading from the memory the code signal configuration associated with the identified user input device; and transmitting a signal in accordance with the code signal configuration read from the memory in Tsui as evidenced by Heitschel et al. because this enables the learning apparatus to learn various transmitters.

#### **(10) Response to Argument**

Appellant argues on pages 6-8 that the switches ( $S_1$ - $S_8$ ) as disclosed by Tsui (6,249,673) identifies which data to be read from the memory to transmit a security code but does not define signal configuration settings. It is the examiners' position that while the switches of Tsui are used to identify which data to be read from memory, the information read from the memory (operating frequency and modulation scheme) based on the operation of the switches is used to configure the transmitter for the signal transmission (col. 6 lines 11-26). Tsui also teaches once the selected transmit switch is pressed power will be provided from the power supply (col. 6 lines 17-22), the switches therefore also serves as the initiating switches because the switches initiates the application of power to the transmitter. Tsui also teaches the transmitter is initiated when any of the switches is activated (col. 7 lines 60-63).

Appellant argues on page 8 that the switches ( $S_1$ - $S_8$ ) do not define or affect the configuration of the signal transmitted by the transmitter. It is the examiner's position that Tsui (US Patent 6,249,673) teaches the selected switches are used to determine the transmitted signal parameters such as the frequency and the modulation (col. 6 lines 11-26).

Appellant argues on page 8 that the reference of Tsui does not teach a controller that stores in memory the signal configuration defined by the signal configuration switches. It is the examiner's position that Tsui (US Patent 6,249,673) teaches a controller 230 storing the configuration define by the switches in memory 250 (col. 6 lines 10-20).

Appellant argues on page 8 that the configuration data is extracted from the received signal. It is the examiner's position that the claims are broadly written and does not exclude the extraction of the configuration data from the received signal.

Appellant argues on page 9 that the reference of Tsui (US Patent 6,249,673) does not teach defining a second set of positions defining a second configuration signal including a second code. It is the examiner's position that Tsui teaches each set of parameters can be retrieved by pressing the corresponding switch (col. 6 lines 14-22) and the sets of parameters includes a second set of configuration storing at a second memory location because multiple set of parameters are stored in the memory.

Regarding appellant's argument on pages 10-11 regarding claim 10 that the prior art of record teaches away from transmitters in which the signal configuration is manually set, it is the examiner's position that Tsui (US Patent 6,556,813, 6,556,813) is not relied upon for teaching a system in which the configuration switches are manually set. The reference of Tsui teaches (US Patent 6,249,673) teaches the assignment of the switches to different signal configuration (col. 6 lines 14-22). The switches as disclosed by Tsui (US Patent 6,249,673) represents a multi position switch because it provides an on/off position for enabling the different signal configuration. The reference of Tsui (US Patent 6,556,813) is used to specifically show the use of multipoint switch such as a dip switch in a transmitter for providing signal configuration.

Appellant argues on pages 11-12 that the reference of Tsui does not include signal configuration switches defining a code to be learned. It is the examiner's position that Tsui (US Patent 6,249,673) teaches the selected switches are used to determine the transmitted signal parameters such as the frequency and the modulation (col. 6 lines 11-26).

#### **(11) Related Proceeding(s) Appendix**

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No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

For the above reasons, it is believed that the rejections should be sustained.


Respectfully submitted,

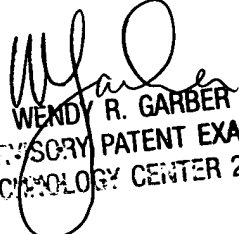
  
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